

IN THE COMMON PLEAS COURT OF RICHLAND COUNTY, OHIO

RICHLAND COUNTY
CLERK OF COURTS
FILED

2017 DEC -5 P 2:26
LINDA H. FRARY
CLERK OF COURTS

Charles E. Butler, individually and as Administrator
of the Estate of Bonnie L. Butler, deceased
416 Central Ave.
Mansfield, OH 44905

Plaintiff,

vs.

Navita Modi
199 W Main St Second Floor
Shelby OH 44875

Defendant

CASE NO. 2017 CV 8 7 5
ROBINSON

COMPLAINT - JURY DEMAND
ENDORSED HEREON

I, Linda H. Frary, Clerk of Courts
Richland County, Ohio, hereby certify that
the foregoing is a true and correct copy of the

COMPLAINT

filed with me 12-5-17
Lm Kemp
Deputy Clerk of Courts

COUNT ONE

1. Plaintiff Charles E. Butler has been appointed personal representative of the Estate of Bonnie L. Butler, deceased. He continues in this capacity to date.
2. Plaintiff Charles E. Butler, as Administrator, brings the wrongful death and survivor actions as the personal representative for the exclusive benefit of the beneficiaries and other next of kin of the Decedent Bonnie L. Butler. Further, Plaintiff Charles E. Butler brings the within action in his individual capacity to the extent he suffered loss of consortium as a result of the wrongful acts described herein.
3. At all times pertinent hereto, Decedent Bonnie L. Butler and Plaintiff Charles E. Butler were husband and wife.
4. The Decedent, Bonnie L. Butler, was born on December 16, 1955, and died on December 23, 2016.
5. At all times pertinent hereto, Decedent Bonnie L. Butler resided in Richland County,

GOVERNMENT
EXHIBIT

A

Ohio.

6. At all times pertinent hereto, Defendant Navita Modi, MD ("Defendant Modi"), was a medical doctor duly licensed and authorized to practice medicine in the State of Ohio. Defendant Modi held herself out to the public, including Bonnie L. Butler, as a physician capable and qualified to provide standard and acceptable gynecological care and gynecological surgery.
7. On December 7, 2016, at OhioHealth Mansfield Hospital, Defendant Navita Modi performed surgery on Bonnie L. Butler described as total laparoscopic hysterectomy and bilateralsalpingo-oophorectomy robotic-assisted/possible total abdominal hysterectomy, for postmenopausal bleeding.
8. At or about 2:15 am on December 8, 2016, Bonnie L. Butler was observed to have green and brown fluid draining from her abdominal incision, among other symptoms characteristic of bile leaking from one or more perforations of the bowel.
9. Throughout December 8 and December 9, 2016, Mrs. Butler's condition deteriorated.
10. On December 9, 2016, at or about 6:00 am, Bonnie L. Butler was taken to the operating room for emergency surgery where it was found that Defendant Modi, in the surgery performed by her on December 7, had caused injury to Mrs. Butler's bowel. The emergency surgery performed on Bonnie Butler showed that because of Defendant's injuring of Bonnie Butler's bowel, there was extensive bowel contamination, infection, and sepsis.
11. During the surgery that Defendant Modi performed on December 7, 2016, and in Defendant's post-surgery care, Defendant Modi was negligent. Defendant Modi was negligent in causing injury to Bonnie Butler's bowel and was negligent in failing to

- properly monitor and treat Bonnie Butler's condition after surgery.
12. Defendant Modi failed to exercise the ordinary and required degree of care, skill, and diligence that was required under the circumstances. As such, Defendant Modi breached her duties as described above, and Defendant Modi thereby rendered substandard care and was otherwise negligent.
13. As a further direct and proximate result of the substandard care rendered by Defendant, Bonnie L. Butler was caused to suffer conscious physical pain, mental anguish, and emotional distress prior to her death; was caused to incur medical and other expenses in the treatment thereof; and was otherwise injured.

COUNT TWO

14. At all times relevant herein, Plaintiff Charles E. Butler and Bonnie L. Butler were husband and wife.
15. As a further direct and proximate result of the substandard care rendered by Defendant, Charles E. Butler sustained unnecessary and extreme mental anguish and suffered loss of the consortium of his wife, Bonnie L. Butler.

COUNT THREE

16. The Plaintiff hereby incorporates by reference the allegations contained in the preceding paragraphs, as if fully rewritten herein.
17. Plaintiff Charles E. Butler, Administrator of the Estate of Bonnie L. Butler, brings this cause of action pursuant to Ohio Revised Code § 2125.02(A)(1) as the personal representative of Decedent's estate.

18. As a direct and proximate result of the Defendant's negligence and inadequate and substandard acts and/or omissions described herein, Decedent Bonnie L. Butler came wrongfully to her death on December 23, 2016.
19. As a direct and proximate result of the aforementioned negligent acts and/or omissions on the part of Defendant, Decedent's next of kin have been caused to suffer a loss of services and consortium, including a loss of society, companionship, affection, comfort, assistance, guidance, and counsel. Plaintiff Charles E. Butler has suffered loss of his spouse.
20. In addition, the Decedent's next of kin have been caused to suffer grief and mental anguish as a result of the Decedent's death and the manner in which she died, and have suffered economic loss.
21. By reason of the foregoing, Decedent's estate further incurred burial and funeral expenses to further the damage of the estate of Decedent.
22. Pursuant to Civil Rule 10, an Affidavit of Merit is attached hereto and made a part hereof.

WHEREFORE, Plaintiff Charles E. Butler, individually and as Administrator of the Estate of Bonnie L. Butler, states that he and the next of kin have been substantially damaged and pray for judgment against the Defendant in an amount of excess of Twenty-Five Thousand Dollars (\$25,000.00) together with interest, prejudgment interest, costs, and attorney's fees that will fully, fairly, and justly compensate them for their injuries and damages, and the costs of this action.

Respectfully submitted,



John K. Rinehardt (0037394)
Melanie Fahey (0062118)
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Mansfield, OH 44906
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melanie@lawfirm2020.com
service@lawfirm2020.com
Attorneys for Plaintiff

JURY DEMAND

Plaintiff respectfully demands trial by jury.



Attorney for Plaintiff

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**IN THE COMMON PLEAS COURT
RICHLAND COUNTY, OHIO**

Charles B. Butler, individually and as
Administrator of the Estate of Bonnie L. Butler,
deceased,

Plaintiff,

Case No.

vs.

Navita Modi, M.D., et. al.,

Defendants.

Steven D. McCarus, M.D., being first duly sworn, states the following to be true:

1. I submit this Affidavit of Merit in accordance with Civ. R. 10(D)(2)(a).
2. I am licensed to practice medicine in the state of Florida.
3. I devote over 75% of my professional time to active clinical practice in my field of Gynecologic Surgery.
4. I am familiar with the applicable standard of care in this matter.
5. I have reviewed those medical records reasonably available to the Plaintiff's decedent, Bonnie Butler, concerning the allegations of substandard care rendered to her by Navita Modi, M.D.
6. Based upon my review of the medical records reasonably available at this time concerning the allegations of substandard care, it is my professional opinion to a reasonable degree of medical certainty that the standard of care was not met. The substandard care directly led to Ms. Butler's untimely death.


Steven D. McCarus, M.D.

Sworn to and subscribed before me on 29 November, 2017.




NOTARY PUBLIC

SUMMONS
Richland County Common Pleas Court of Ohio

CHARLES E BUTLER INDIVIDUALLY

CASE: 2017 CV 0875

VS

NAVITA MODI

NAVITA MODI
199 WEST MAIN STREET, SECOND FLOOR
SHELBY, OH 44875

You have been named Defendant (s) in a complaint filed in Richland County Court of Common Pleas, 50 Park Ave East, Mansfield, Ohio by

CHARLES E BUTLER INDIVIDUALLY
AND AS ADMINISTRATOR OF THE ESTATE OF
MANSFIELD, OH 44905

Plaintiff (s). A copy of the Complaint is attached hereto. The name and address of the Plaintiff's Attorney is,
JOHN K RINEHARDT
ATTORNEY AT LAW
2404 PARK AVE WEST
MANSFIELD, OH 44906

You are hereby summoned and required to serve upon the plaintiff's Attorney, or upon the plaintiff, if he has no Attorney of record, a copy of an answer to the complaint within **28 days** after service of this summons on you, exclusive of the day of service. Your answer must be filed with the Court within 3 days after the service of a copy of the answer on the plaintiff's attorney.
If you fail to appear and defend, judgment by default will be rendered against you for the relief demanded in the complaint.

December 5, 2017

LINDA H FRARY
CLERK, COURT OF COMMON PLEAS

By *Ln. Kemp*
Deputy Clerk

*****SUMMONS SENT BY REGULAR MAIL AS INSTRUCTED, ON DATE ABOVE. PER CIV. R. 4.6(D), YOUR ANSWER DATE IS:

SHERIFF'S RETURN

| | |
|---------------------|----------|
| Service and Return: | \$ _____ |
| Mileage | \$ _____ |
| TOTAL | \$ _____ |

How Served: (Mail / Person)

When Served: _____

Sheriff _____

Carto

RICHLAND COUNTY
CLERK OF COURTS
FILED

IN THE COURT OF COMMON PLEAS OF RICHLAND COUNTY, OHIO

2018 JAN -9 P 2:24

CHARLES E. BUTLER,

Plaintiff,

vs.

NAVITA MODI,

Defendant.

Case No. 2017-CV-875-R

LINDA H. FRARY
CLERK OF COURTS

STIPULATED ORDER GRANTING
EXTENTION OF TIME TO MOVE
OR PLEAD

Upon motion of defendant and the stipulation of counsel for the parties herein, and for good cause shown; it is hereby

ORDERED, ADJUDGED AND DECREED that defendant. Navita Modi, is hereby granted an extension of time until March 8, 2018 within which to move or plead to the Complaint filed herein by plaintiff

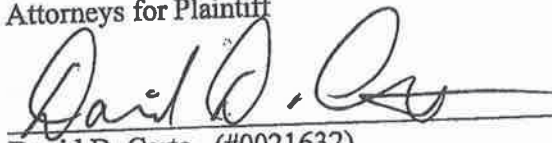
IT IS SO ORDERED.



Judge Brent N. Robinson

APPROVED AND STIPULATED:

/s/ John K. Rinehardt (per phone authority 1/4/18)
John K. Rinehardt (#0037394)
Melanie Fahey (#0062118)
Attorneys for Plaintiff



David D. Carto (#0021632)
WELDON, HUSTON & KEYSER, L.L.P.
Attorneys for Defendants